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14 NOV 1973

MEMORANDUM FOR: Director of Personnel

SUBJECT : Proposed Guidelines on Administrative Investigations and Interrogations of Federal Governmental Employees for Wrongdoing Which Involves Possible Criminal Violations

1. Reference is made to the Civil Service Commission memorandum, same subject, dated 26 October 1973, and to your request for my comments on the Subject proposed guidelines. In my estimation, the proposed guidelines do not require any significant change in present Office of Security policy of reporting to and working with the Federal Bureau of Investigation whenever information is developed that a federal crime has been committed by an Agency employee. Policy in this regard is already firmly established in accordance with 28 U.S.C. 535, provisions of which are set forth in paragraph 1 of the proposed guidelines from the Civil Service Commission.

2. There is a significant consideration involved in the Agency's response to the provisions of 28 U.S.C. 535 and to the proposed guidelines, this being the statutory authority of the Director of Central Intelligence for the protection of intelligence sources and methods from unauthorized disclosures. Mr. Allen W. Dulles, Director, in a memorandum dated 7 March 1955, entitled "Information or Allegations Concerning Criminal Acts on the Part of Agency Personnel" (Executive Registry number 6-6849), refers to his responsibility in these areas in this memorandum. He stated that if a criminal act were committed which involved intelligence sources and methods, these responsibilities would be in conflict. He, therefore, established the

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PERS 73- 4984

policy that if the investigation and action on any information or allegation of violation of criminal law arising in connection with Agency operations does not involve risk of compromise to the security of such operations, or of intelligence sources or methods which would outweigh the benefits which would be derived from prosecution, this Agency will cooperate with the Department of Justice in line with the latter's responsibility. The Department of Justice, on the other hand, has recognized that where legitimate security considerations would prevent prosecution or other appropriate action, investigation by them might well be in violation of his statutory responsibilities.

3. As you are aware, I am responsible for the safeguarding and protection of information developed through the polygraph interview. The many applicant-type security actions processed by this Office are not of concern under the Subject guidelines, as applicants do not fall within the federal employee category. A concern regarding the polygraph would take place, however, in the case of the disclosure of a federal crime as an unexpected by-product of a reinvestigation polygraph interview. I would expect to continue, as is the present policy, to recommend to the Director of Central Intelligence the release of this information only in those cases found to be "necessary in the interest of national security".

4. The guideline provisions for the granting of immunity, legal waivers, and other elements of constitutional rights appear to be properly composed; however, in these matters I defer to the Office of General Counsel.

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Howard J. Osborn  
Director of Security

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